

## **600 KAR 6:010. Definitions for 600 KAR Chapter 6.**

RELATES TO: KRS 45A.030, 45A.085, 45A.095, 45A.800-45A.835, 45A.838, 23 C.F.R. 172, 23 U.S.C. 112, 121

STATUTORY AUTHORITY: KRS 45A.838

NECESSITY, FUNCTION, AND CONFORMITY: KRS 45A.838(1), (4), and (5) require the Transportation Cabinet to promulgate administrative regulations relating to the establishment and operation of professional service firm pools. This administrative regulation establishes the definitions for terms used in 600 KAR Chapter 6.

Section 1. Definitions. (1) "Award" means the presentation of an agreement or contract to a professional.

(2) "Cabinet" means the Kentucky Transportation Cabinet.

(3) "Change order" is defined in KRS 45A.030(2).

(4) "Competitive negotiation" means negotiations that meet the requirements established in KRS 45A.085.

(5) "Consultant" means a firm which has been selected to perform engineering or engineering-related services for the cabinet as the prime or top-ranked firm in accordance with 600 KAR 6:060.

(6) "Continuous professional liability policy" means professional liability insurance coverage which is maintained without a gap in coverage in order to become and to remain prequalified with the Transportation Cabinet.

(7) "Contract" is defined in KRS 45A.030(7).

(8) "Contract modification" is defined in KRS 45A.030(8).

(9) "Cost per unit of work" means a price based on a unit if the extent of work cannot be defined but a cost of the work per unit can be determined in advance with reasonable accuracy.

(10) "Cost plus a fixed fee" means a price based on the actual allowable cost of the work plus any preestablished fixed amount for operating margin.

(11) "DBE" means a disadvantaged business enterprise as defined and certified in accordance with the provisions of 600 KAR 4:010.

(12) "Direct salary" means the salary of a person directly involved with and chargeable to a specific project, e.g., engineering or draftsperson time spent on a project.

(13) "Discipline" means an engineering or related service area with responsibility falling to a specific user division.

(14) "Engineer" is defined by KRS 45A.800(2).

(15) "Engineering-related services" is defined by KRS 45A.800(7).

(16) "Firm" is defined by KRS 45A.800(8).

(17) "FHWA" means the Federal Highway Administration.

(18) "Lump sum" means a fixed price, including cost and operating margin, agreed upon between a consultant and cabinet for a group of tasks without a breakdown of individual values, i.e., a lot price.

(19) "Modification" means a formal revision to the terms of a contract.

(20) "Noncompetitive negotiation" means negotiations that meet the requirements established in KRS 45A.095.

(21) "Overhead costs" means an indirect cost that:

(a) Is not chargeable to a specific project; and

(b) Supports:

1. Personnel salaries;

2. Accounting;

3. General maintenance and repair;
4. Building rent;
5. Utilities;
6. Furniture; and
7. A similar cost related to conducting business.

(22) "Overhead submission packet" means a package of information containing a summary of the:

- (a) Firm's overhead expense accounts;
- (b) Direct and indirect labor; and
- (c) Direct costs of items outlined in 600 KAR 6:080, Section 1(5).

(23) "Pool" means a group of firms selected to provide engineering or engineering-related services.

(24) "Prequalification" means the evaluation of a professional:

(a) To determine if he or she is qualified to contract with the cabinet for engineering or engineering-related services; and

(b) By consideration of:

1. Financial capability;
2. Technical expertise;
3. Experience;
4. Past performance;
5. Management; and
6. Similar business factors.

(25) "Prequalification category" means a type of project for which engineering or engineering-related services are contracted.

(26) "Prime" or "top-ranked" means a consultant:

(a) Awarded a contract under 600 KAR 6:070; and

(b) Performing at least fifty (50) percent of the dollar value of the work for a project.

(27) "Principal" means an individual who:

(a) Owns directly or indirectly more than ten (10) percent of the voting interest in a consulting firm; or

(b) Serves as:

1. President;
2. Vice president;
3. Secretary;
4. Director; or
5. Another firm officer.

(28) "Project-specific professional liability insurance" means separate professional liability coverage which provides noncancelable coverage for the duration of a specific project and continuing through a discovery period after construction is complete.

(29) "Professional liability policy" means claims-made insurance coverage for engineering or engineering-related services which indemnifies a firm, a past or present partner, an officer, a director, a stockholder, or an employee while acting within the scope of firm duties, against the following:

- (a) A negligent act;
- (b) An error or omission in performing a professional service; or
- (c) Failure to provide a service in accordance with standard of care.

(30) "Professional services" means specialized services performed by an individual or consultant of recognized technical competence.

(31) "Project" means an undertaking by the Transportation Cabinet as defined in KRS

45A.800(4).

(32) "Project manager" means the director of the user division or person designated by the user division director to oversee the performance of a consultant to perform contracted services on a project.

(33) "Proof of necessity" means the justification to employ an:

- (a) Engineer;
- (b) Architect;
- (c) Appraiser;
- (d) Attorney; or
- (e) Other professional.

(34) "Proposal" means an offer made by a firm to the cabinet as a basis for negotiations for entering into a contract.

(35) "Salary additives" means an employer-paid fringe benefit, including:

- (a) The employer portion of FICA;
- (b) Health insurance;
- (c) Group life insurance;
- (d) A state unemployment contribution; or
- (e) A similar employee benefit.

(36) "Scope of work" means all services and actions required of the consultant by the contract.

(37) "Services" is defined in KRS 45A.030(24).

(38) "Six (6) year plan" means the document prepared by the Transportation Cabinet in accordance with the provisions of KRS 176.419 through 176.440.

(39) "Standard of care" means the ordinary and reasonable care required and established by expert testimony of what a reasonable and prudent professional would have done under the same or similar circumstances.

(40) "Subconsultant" means a second consultant contracted to a prime consultant for the performance of work contracted by the cabinet to the prime consultant.

(41) "Termination clause" means a contract clause which allows the cabinet to terminate, at its own discretion, the performance of work and to make settlement of the consultant's claims.

(42) "User division" is defined in KRS 45A.800(6).

(43) "Work unit" means an item on a list of tasks which are required to be accomplished by the consultant in order to satisfactorily complete the scope of work. (22 Ky.R. 1403; eff. 4-5-1996; 24 Ky.R. 1373; 1689; eff. 2-19-1998; 25 Ky.R. 1952; 2559; eff. 5-4-1999; 33 Ky.R. 539; 1307; eff. 11-9-2006; Crt eff. 4-1-2019.)